



DIRECTIVE 05-5

July 18, 2005

DUE PROCESS PROCEDURES FOR AGRICULTURAL AND HORTICULTURAL LAND UNDER SPECIAL VALUATION

Purpose. To outline and incorporate Neb. Laws. 2005, LB 263, §§11 and 12 which amended Neb. Rev. Stat. §§77-1345.01 and 77-1347, into the due process procedures for agricultural and horticultural land under special valuation. The text shown in gray is the statutory changes made by Neb. Laws. 2005, LB 263, §§ 11 and 12.

Procedures for approving or denying applications for special valuation filed on or before June 30.

Application for the special valuation assessment shall be submitted to the assessor on or before June 30 of the first year in which special valuation is requested. Any application received after June 30, except those applications filed because of county board of equalization action pursuant to Neb. Rev. Stat. §§77-1504 and 77-1507 shall be accepted only as an application for the following year.

The application shall be made on the Special Valuation Application Form, (Form 456), as prescribed by the Property Tax Administrator. The application must be submitted on behalf of the taxpayer seeking the special valuation assessment on the property and be signed by one of the following persons:

- (a) The taxpayer, who is the owner of the land or a lessee who is responsible for paying the taxes on land owned by the state or a governmental subdivision; or
- (b) Any person of legal age duly authorized to sign an application on behalf of a taxpayer; or
- (c) The guardian or conservator of a taxpayer or the executor or administrator of the taxpayer's estate.

The assessor shall not approve an application signed by a person whose authority to sign is not a matter of public record unless there is filed with the application a true copy of the deed, contract of sale, power of attorney, lease, or other appropriate instrument evidencing the signer's interest or authority.

Upon receiving an application and necessary documentation as required, under Neb. Rev. Stat. §77-1345, the assessor shall verify the information as to the status of the applicant and the

eligibility of the land. If all criteria for the special valuation assessment is met, the assessor shall approve the application for special valuation on or before July 15. On or before July 22, the assessor shall send written notification of approval by regular mail to the owner, or applicant if not the same as the owner, and the lessee who is responsible for paying the taxes on land owned by the state or a governmental subdivision. After approving the application, the assessor shall apply the special valuation assessment to the land. An approved application will remain in effect until the land becomes disqualified.

If the application is denied, the assessor shall on or before July 22, send written notification by regular mail to the owner, or applicant if not the same as the owner, and the lessee who is responsible for paying the taxes on land owned by the state or a governmental subdivision. The notice from the assessor shall state the reason or reasons why the application was denied.

The owner, applicant, or lessee may protest the denial of their application for the special valuation assessment to the county board of equalization within (30) thirty days after the mailing of the notice of the denial of the application.

- (1) The protest shall be filed in triplicate with the county clerk.
- (2) If the protest is not timely filed, it shall automatically be dismissed.
- (3) The protest shall contain a written statement of why the application should not have been denied. If the protest does not contain the statement, it shall be dismissed by the county board of equalization.

The county board of equalization shall hear and decide the protest within (30) thirty days after the filing of the protest with the county clerk.

Within (7) seven days after the county board of equalization's decision, the county clerk shall mail written notice of the board's decision to the protester. If the protest is denied the notice shall once again state the reason for denial.

Within (30) thirty days after the decision of the county board of equalization, the protester may appeal the board's decision to the Tax Equalization and Review Commission in accordance with Neb. Rev. Stat. §77-5013.

Procedures for approving or denying applications for special valuation filed after county board of equalization action pursuant to Neb. Rev. Stat. §§77-1504 or 77-1507.

If the county board of equalization takes action pursuant to Neb. Rev. Stat. §§77-1504 or 77-1507, on agricultural or horticultural land which was undervalued, overvalued or omitted from the assessment roll or for clerical errors involving agricultural or horticultural land, the taxpayer may file an application for the special valuation assessment within (30) thirty days after the mailing of the valuation notice by the county board of equalization. The application shall be made on the Special Valuation Application Form, (Form 456), as prescribed by the Property Tax Administrator. The

application must be submitted on behalf of the taxpayer seeking the special valuation assessment on the property and be signed by one of the following persons:

- (a) The taxpayer who is the owner of the land or a lessee who is responsible for paying the taxes on the land; or
- (b) Any person of legal age duly authorized to sign an application on behalf of the taxpayer; or
- (c) The guardian or conservator of the taxpayer or the executor or administrator of the taxpayer's estate.

The assessor shall not approve an application signed by a person whose authority to sign is not a matter of public record unless there is filed with the application a true copy of the deed, contract of sale, power of attorney, lease, or other appropriate instrument evidencing the signer's interest or authority.

Upon receiving an application and necessary documentation as required pursuant to Neb. Rev. Stat. §77-1345, the assessor shall verify the information as to the status of the applicant and the eligibility of the land. Within (15) fifteen days after the filing of the application, the assessor shall approve or deny the application. Within (22) twenty-two days after the filing of the application the assessor shall send written notification of approval or denial to the owner, or applicant if not the same as the owner, and the lessee who is responsible for paying the taxes on land owned by the state or a governmental subdivision.

If the application is approved, the assessor shall apply the special valuation assessment to the land. An approved application will remain in effect until the land becomes disqualified.

If the application is denied, the assessor shall state the reason or reasons why the application was denied.

The owner, applicant, or lessee, may protest the denial of the application by the assessor to the county board of equalization within (30) thirty days after the mailing date of the notice from the assessor.

- (1) The protest shall be filed in triplicate with the county clerk.
- (2) If the protest is not timely filed, it shall automatically be dismissed.
- (3) The protest shall contain a written statement of why the application should not have been denied. If the protest does not contain the statement, it shall be dismissed by the county board of equalization.

The county board of equalization shall hear and decide the protest within (30) thirty days after the date the protest was filed with the county clerk.

Within (7) seven days after the county board of equalization's decision, the county clerk shall mail notice of the board's decision to the protester. If the protest is denied the notice shall again state the reason for denial.

Within (30) thirty days after the date of the decision of the county board of equalization, the protester, may appeal the board's decision to the Tax Equalization and Review Commission in accordance with Neb. Rev. Stat. §77-5013.

Procedures for the value notification and appeal of the valuation of denied applications that have been reversed on appeal.

If the denial of an application is reversed on appeal and the application is approved, the land shall be valued by the assessor as provided in Neb. Rev. Stat. §77-1344. The county board of equalization shall, within (14) fourteen days after the date of the final order, send by regular mail the property valuation notice for the special valuation and recapture valuation to the owner, or applicant if not the same as the owner, and the lessee who is responsible for paying the taxes on land owned by the state or a governmental subdivision, or their successors in interest.

The notice shall state that the owner, applicant, lessee, or their successors in interest have (30) thirty days after the date the notice was mailed to protest the valuations to the county board of equalization.

The protest procedures for the special value assessment and the recapture value assessment shall be as set out in Neb. Rev. Stat. §77-1502, except for date restrictions.

The county board of equalization shall hear and decide the protest within (30) thirty days after the date the protest was filed with the county clerk.

Within (7) seven days after the county board of equalization's decision, the county clerk shall mail notice of the board's decision to the protester.

The protester, upon receiving notice of the decision of the county board of equalization regarding his or her valuation protest, may within (30) thirty days after the notice date, appeal the decision, to the Tax Equalization and Review Commission in accordance with Neb. Rev. Stat. §77-5013.

Procedures for the notification and appeal of the special valuation and recapture valuation assessments for a parcel of agricultural or horticultural land that has an approved application on file as of the certification of the assessment roll.

For a parcel of agricultural or horticultural land that has an approved application on file as of the certification of the assessment roll, the assessor shall send notice to the owner, or applicant if not the same as the owner, and a lessee who is responsible for paying the taxes on land owned by the state or a governmental subdivision, if either the special valuation assessment or the recapture valuation assessment is different from the previous year. The notice shall state the information as required pursuant to Neb. Rev. Stat. §77-1315(2) along with the prior year's and current year's

recapture and special valuations. The protest procedures for the special value assessment and the recapture value assessment shall be as set out in Neb. Rev. Stat. §77-1502.

If a protest is filed the county board of equalization shall hear and decide the protest on or after June 1 and on or before July 25.

On or before August 2, the county clerk shall mail notice of the board's decision to the protester.

The protester, upon receiving notice of the decision of the county board of equalization regarding their valuation protest, may appeal the decision, on or before August 24, to the Tax Equalization and Review Commission pursuant to Neb. Rev. Stat. §77-5013.

Procedures for the notification and appeal of the special valuation and recapture valuation assessments for a parcel of agricultural or horticultural land that has an approved application filed after the certification of the assessment roll and on or before June 30.

For a parcel that has an approved application filed after the certification of the assessment roll and on or before June 30, the county board of equalization shall on or before July 22, send the valuation change notice as required to the owner, or applicant if not the same as the owner, and lessee who is responsible for paying the taxes on land owned by the state or a governmental subdivision. The notice shall state that the owner, applicant, or lessee has (30) thirty days after the date the notice was mailed to protest the valuations to the county board of equalization.

The protest procedures for the special value assessment and the recapture value assessment shall be as set out in Neb. Rev. Stat. §77-1502, except for date restrictions.

If a protest is filed the county board of equalization shall hear and decide the protest within (30) thirty days after the date the protest was filed with the county clerk.

Within (7) seven days after the county board of equalization's decision, the county clerk shall mail notice of the board's decision to the protester.

The protester, upon receiving notice of the decision of the county board of equalization regarding his or her valuation protest, may within (30) thirty days after the notice date, appeal the decision, to the Tax Equalization and Review Commission in accordance with Neb. Rev. Stat. §77-5013.

Procedures for the notification and appeal of the special valuation and recapture valuation assessments for a parcel of agricultural or horticultural land that has an approved application filed after June 30, because of county board of equalization action pursuant to Neb. Rev. Stat. §§77-1504 or 77-1507..

For a parcel that has an approved application filed after June 30, because of county board of equalization action on agricultural or horticultural land that was undervalued, overvalued or omitted from the assessment roll or for clerical errors involving agricultural or horticultural land, the county board of equalization shall send a notice of valuation as required to the owner, or applicant if not the same as the owner, and lessee who is responsible for paying the taxes on land owned by the state or a governmental subdivision. The notice shall state the special valuation assessment and the recapture valuation assessment. The notice of valuation shall be sent at the same time as the application approval notice.

The valuation notice shall state that the owner, applicant, or lessee has (30) thirty days after the date of the valuation notice to protest the valuations to the county board of equalization. The protest procedures for the special value assessment and the recapture value assessment shall be as set out in Neb. Rev. Stat. §77-1502, except for date restrictions.

If a protest is filed the county board of equalization shall hear and decide the protest within (30) thirty days after the date the protest was filed with the county clerk.

Within (7) seven days after the county board of equalization's decision, the county clerk shall mail notice of the board's decision to the protester.

Within thirty (30) thirty days after the date of the decision of the county board of equalization, the protester may appeal the board's decision to the Tax Equalization and Review Commission pursuant to Neb. Rev. Stat. §77-5013.

APPROVED

/s

Catherine D. Lang
Property Tax Administrator

July 13, 2005

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